

**LFC Requester:****Anne Hanika-Ortiz****AGENCY BILL ANALYSIS  
2016 REGULAR SESSION****WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:****[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)***and***[DFA@STATE.NM.US](mailto:DFA@STATE.NM.US)***{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}**Check all that apply:***Original**      X   **Amendment**          **Correction**           **Substitute**          **Date**    Jan. 28, 2016**Bill No:**    HB 234**Sponsor:**    Rep. Jason C. Harper**Agency Code:**    305**Short**    Law Enforcement Pension**Person Writing**    Brian Parrish, AAG**Title:**    Plan & Fund**Phone:**    827-6624**Email**    bparrish@nmag.gov**SECTION II: FISCAL IMPACT****APPROPRIATION (dollars in thousands)**

| Appropriation |      | Recurring<br>or Nonrecurring | Fund<br>Affected |
|---------------|------|------------------------------|------------------|
| FY16          | FY17 |                              |                  |
|               |      |                              |                  |
|               |      |                              |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

| Estimated Revenue |      |      | Recurring<br>or<br>Nonrecurring | Fund<br>Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY16              | FY17 | FY18 |                                 |                  |
|                   |      |      |                                 |                  |
|                   |      |      |                                 |                  |

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

|              | <b>FY16</b> | <b>FY17</b> | <b>FY18</b> | <b>3 Year<br/>Total Cost</b> | <b>Recurring or<br/>Nonrecurring</b> | <b>Fund<br/>Affected</b> |
|--------------|-------------|-------------|-------------|------------------------------|--------------------------------------|--------------------------|
| <b>Total</b> |             |             |             |                              |                                      |                          |

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts with HJM 2  
and SJM 3;

Relates to HB 171.

**SECTION III: NARRATIVE****BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

**Synopsis:**

House Bill 234 ("HB 234") amends the Public Employees Retirement Act ("PERA") to create a new Pension Investment Plan ("PIP") for certain law enforcement officer retirees ("LEOR") and allows those retirees to be reemployed post-retirement and elect whether to (1) participate as a "member" under PERA, and have their pension terminated and re-calculated at the end of their reemployment; (2) not participate in PERA, and have their pension and cost-of-living-adjustment ("COLA") suspended during their reemployment; or (3) participate in the PIP, and have their pension and COLA put into their PIP account during reemployment. If a LEOR elects to participate in PIP, at the end of their reemployment, the LEOR would select a distribution method for their PIP account and receive the distribution from the PIP in addition to their pension under PERA.

HB 234 adds definitions to the PERA for PIP, PIP account, and PIP participant in Section 1. In Section 2, HB 234 states that personal service by PIP participants are not to be considered "service credit," thus would not affect the calculation of a LEOR's pension under PERA.

Section 4 removes the return to work provisions from NMSA 1978, Section 10-11-8 and enacts a new section of PERA that appears to provide substantially similar provisions as those removed for all persons currently covered by PERA, except LEORs

**FISCAL IMPLICATIONS**

N/A

**SIGNIFICANT ISSUES**

HB 234 could implicate Art. XX, Sec. 22 of the New Mexico Constitution, which requires that changes to the retirement system must be adequately funded.

**PERFORMANCE IMPLICATIONS**

N/A

## **ADMINISTRATIVE IMPLICATIONS**

N/A

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 234 conflicts with HJM 2 and SJM 3, which both request a moratorium on proposing and considering legislation that would affect retirement benefits administered under PERA. HB 234 also relates to HB 171, which allows certain retired law enforcement personnel to return to work and continue to collect a pension during their rehire period.

## **TECHNICAL ISSUES**

N/A

## **OTHER SUBSTANTIVE ISSUES**

In 2010, PERA was amended to end the possibility of double-dipping following retirement under plans administered by PERA. HB 234 appears to single out LEORs to allow them to be reemployed and elect to indirectly receive their pension payments (which would be suspended during the period of reemployment under current law) through the use of a PIP and to have those monies paid out through a PIP distribution (in addition to their pension under PERA) following their period of reemployment. Other current PERA members would not be equally treated.

## **ALTERNATIVES**

None suggested.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

## **AMENDMENTS**

None suggested.